

# **STATE OF GEORGIA**

## **DEPARTMENT OF**

### **BANKING AND FINANCE**



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***NATHAN DEAL***  
***GOVERNOR***

***ROB BRASWELL***  
***COMMISSIONER***

***SPECIAL EDITION***

***IMPORTANT NOTICE***

***PROPOSED RULEMAKING***

June 28, 2011

**NOTICE OF PROPOSED RULEMAKING  
AND  
OPPORTUNITY TO COMMENT**

**PROPOSED AMENDMENT TO RULES AND REGULATIONS  
OF  
DEPARTMENT OF BANKING AND FINANCE  
STATE OF GEORGIA**

To all interested persons:

Pursuant to the provisions of the Georgia Administrative Procedures Act, Official Code of Georgia Annotated (O.C.G.A.) Chapter 50-13 and by authority of O.C.G.A. § 7-1-61, O.C.G.A. § 7-1-663; O.C.G.A. § 7-1-1012, and other cited statutes, the Georgia Department of Banking and Finance hereby gives notice of its intent to adopt new and amended rules.

The enclosed proposed changes are in part responsive to law changes in the 2011 Legislation.

A synopsis and purpose precedes each proposed rule, with background information and explanation where applicable.

Comments to the Department of Banking and Finance must be received by **Thursday, July 28, 2011**, at the close of business. Please send all comments to:

Rob Braswell, Commissioner  
Georgia Department of Banking and Finance  
2990 Brandywine Road, Suite 200  
Atlanta, GA 30341-5565

Fax: (770) 986-1654 or 1655

The Department shall review all comments, may contact commenters to discuss their suggestions, and after the comment period has closed will prepare the final rules. The Department will consider the proposed new rules for adoption at a meeting at 9:30 a.m. on Monday, August 1, 2011, at the offices of the Department of Banking and Finance at Suite 200, 2990 Brandywine Road, Atlanta, Georgia 30341. Notice and a copy of the final rules adopted will be e-mailed to persons who have made a special request, and will be made available on our website at <http://dbf.georgia.gov/>. Other interested parties may receive a copy of the final rule by contacting the Department at (770) 986-1633, after Monday, August 1, 2011.

## **2011 Rules and Regulations**

### **Proposed Changes: Synopsis, Purpose and Background**

#### **80-5-1-.02 License, Registration and Supervision Fees for Check Cashers and Sellers, Money Transmitters, Representative Offices and Mortgage Lenders and Brokers; Due Dates.**

Language has been added to this Rule to clarify that license applications must include documentation evidencing requisite continuing education hours.

#### **80-5-1-.04 Levy, Collection, Remittance and Refunds of Georgia Residential Mortgage Act Per Loan Fee.**

Additional language has been added to this Rule to require that per loan fees be reported to the Department via an automated on-line system, rather than through a paper reporting. Language was deleted from the Rule relative to the paper reporting methodology.

#### **80-5-1-.07 License Renewal Periods and Requirements for Mortgage Brokers, Mortgage Lenders, and Mortgage Originators.**

Language has been added to this Rule to clarify that license renewal applications must include documentation evidencing requisite continuing education hours.

#### **80-11-1-.05 Employee Background Checks; Covered Employees.**

A change was made to Rule language to reflect that a requirement already exists as opposed to being prospective in nature.

#### **80-11-3-.01 Administrative Fines.**

Two fines have been added to this Rule and one fine has been reduced.

A fine of \$1,000 per occurrence will be assessed against a licensee or registrant who permits unlicensed persons to engage in mortgage loan originator activities.

The late fee filing fine for fee statement forms has been reduced from \$1,000 to \$100 per occurrence.

A fine of \$1,000 per occurrence will be assessed against a licensee or registrant who fails to file Call Reports via the Nationwide Mortgage Licensing System and Registry as required.

#### **80-11-4-.01 Initial Experience and Education Requirements; Continuing Education.**

Language changes have been made to this Rule to reflect that a requirement already exists as opposed to being prospective in nature.

#### **80-11-4.04 ~~Temporary License.~~ Repealed and Reserved.**

This Rule has been deleted in its entirety.

#### **80-11-4.05 Knowing Purchase, Sale or Transfer of Loan or Loan Application from Unlicensed Entity, Mortgage Loan Originator Sponsorship Excluded.**

Changes have been made to this Rule to clarify that the mere act of “sponsoring” an unlicensed applicant, as that act is defined, does not constitute a violation to the sponsoring licensee or registrant.

#### **80-11-4.08 Restrictions on Employment and Licensing.**

Language has been changed in this Rule to clarify the provision regarding employing a felon.

#### **80-11-5.01 Mortgage Loan Originator Licensure Requirements.**

Changes have been made to this Rule to allow for administrative withdrawal of an application if an applicant or licensee fails to maintain sponsorship on the Nationwide Mortgage Licensing System and Registry. Language was also added to clarify that sponsorship is a continuing requirement of licensure.

Language was deleted from this Rule dealing with the individual mortgage loan originator operating under his or her own surety bond. Legislative changes dictate that the employing mortgage lender or mortgage broker’s surety bond cover their individual mortgage loan originator employees.

A change was made to the Rule that the Department will no longer accept a “restoration of rights” document from an applicant to cure a felony conviction. Current licensees that were allowed to become licensed utilizing a “restoration of rights” will not be affected by this change, so long as he or she maintains licensure.

#### **80-11-5.04 Renewals.**

A clarification has been made to this Rule to note that no notice or hearing is available upon license expiration when a licensee fails to provide satisfactory proof of completion of eight (8) hours continuing education hours, and payment of the applicable fine, if any, by December 31<sup>st</sup>.

#### **80-11-5.05 Administrative Fines.**

Language was added to this Rule to clarify that a licensee who permits an unlicensed person to use their name, NMLSR unique identifying number or other identifying information for the purpose of mortgage loan origination will be subject to a fine of \$1,000 per occurrence and subject to the revocation of licensure.

**80-11-5.06 Administrative Actions; Nationwide Mortgage Licensing System and Registry Information Challenges.**

A change was made to this Rule to indicate that certain information that is considered public information can be disseminated through the Nationwide Mortgage Licensing System and Registry and the Department.

**80-11-5.07 Information on the Nationwide Mortgage Licensing System and Registry.**

This Rule is being amended to require mortgage loan originator applicants and licensees to make necessary changes to their information on the Nationwide Mortgage Licensing System and Registry within designated time frames and to provide for penalties for failing to do so.

## ***PROPOSED RULES***

### **80-5-1-.02 License, Registration and Supervision Fees for Check Cashers and Sellers, Money Transmitters, Representative Offices and Mortgage Lenders and Brokers; Due Dates.**

(1) Check sellers and money transmitters.

(a) The annual license fee is two thousand dollars (\$2,000).

(b) The annual renewal license fee is two thousand dollars (\$2,000) for check sellers and one thousand dollars (\$1,000) for money transmitters and shall be due and must be received by the Department on or before the first day of November of each year. Where the person or corporation engages in both the sale of checks and money transmission, the higher of the two fees shall be due and payable. Annual license renewal fees not received prior to November 1 will be assessed a late fee of three hundred dollars (\$300) and cannot be assured of issuance or renewal prior to January 1.

(c) An additional non-refundable application investigation fee of two hundred fifty dollars (\$250) will be assessed.

(d) All check seller and money transmitter licenses shall expire on December 31 of each year.

(2) Check Cashers.

(a) The annual license fee is five hundred dollars (\$500).

(b) The annual renewal license fee is five hundred dollars (\$500).

(c) An initial investigation and supervision fee shall be seven hundred fifty dollars (\$750) for the first year. It is not refundable, but if the license is granted it shall satisfy the annual fee for the first license period.

(d) Initial and renewal license fees shall also include an additional fifty dollars (\$50) for the second and each additional location, plus a fee in an amount as directed by the Department to cover the cost of the required number of fingerprints for each individual background check.

(e) Annual renewal license fees shall be due and must be received by the Department on or before the first day of August of each year. Annual renewal license fees not received prior to the first day of August of each year will be assessed a late fee of three hundred dollars (\$300) and cannot be assured of renewal prior to October 1. Applicants may not operate a check cashing business without a current license.

(f) Check cashers desiring exemption pursuant to Rule 80-3-1-.02(4)(b) and designated as Registrants shall file an initial application and pay a registration fee of two hundred dollars (\$200) and an annual renewal application and fee of one hundred dollars (\$100) due and must be

received by the Department on or before the first day of August of each year. Annual renewal fees not received prior to the first day of August of each year will be assessed a late fee of one hundred dollars (\$100) and cannot be assured of renewal prior to October 1.

(g) An initial investigation and supervision fee shall be three hundred dollars (\$300) for the first year. It is not refundable, but if the license is granted it shall satisfy the annual fee for the first registration period.

(h) All check cashers licenses and registrants shall expire on September 30 of each year.

(3) Registrants of representative offices, trust production offices, business production offices, and loan production offices shall file a registration statement, as prescribed by the Department, and shall pay a registration fee of one hundred fifty dollars (\$150) on or before the first day of January of each year. Such fee is intended to cover the costs of responding to questions or complaints from consumers with regard to these entities doing business in Georgia and is in lieu of registration under O.C.G.A. § 16-14-15, as provided in O.C.G.A. § 7-1-11. Registrants of international bank representative offices shall pay a registration fee of one thousand dollars (\$1,000). Each bank holding company supervised by or registered with the Department shall pay on or before January 31 of each year an annual registration fee of one thousand dollars (\$1,000). Each Georgia bank holding company or holding company that owns a Georgia bank must pay five hundred dollars (\$500) for each additional Georgia subsidiary corporation in those categories, provided, however, any registrant required to register and pay a fee by another paragraph of this chapter shall only be required to pay one fee which shall be the higher fee.

(4) Mortgage licensees and registrants.

(a) Lenders. The initial and renewal application and license fee for mortgage lenders shall be one thousand dollars (\$1,000). The initial one thousand dollars (\$1,000) fee covers the main office. Any branch offices included in the initial application shall be assessed a fee of three hundred fifty dollars (\$350) each. A fee of three hundred fifty dollars (\$350) will be assessed for each additional office not initially registered, if such office is located in Georgia, and if mortgage lending activity is conducted at the office. An initial investigation fee of two hundred fifty dollars (\$250) per applicant shall also apply. Subsequent renewal applications and license fees plus a twenty dollar (\$20) fee for each approved branch office located in Georgia, must be received on or before December 1 of each year or the applicant will be assessed a late fee of three hundred dollars (\$300). A renewal application and license fee not received on or before the December 1 renewal application deadline of each year cannot be assured of issuance or renewal prior to January 1, at which time the license or registration will ~~be considered to be expired~~. Applicants may not conduct a mortgage business without a current license or registration.

(b) Brokers. The initial and renewal application and license fee for mortgage brokers shall be five hundred dollars (\$500). The initial five hundred dollar (\$500) fee covers the main office. Any branch offices located in Georgia shall be assessed a fee of three hundred fifty (\$350) each. Brokers include loan processors. Processors are defined in Rule 80-11-4-.07. Such a processor may have a separate main office and other branch offices where mortgage loan processing is done. The offices will be treated the same as brokers' offices. An initial investigation fee of two hundred fifty dollars (\$250) per applicant shall also apply. Subsequent renewal applications and license fees must be received on or before December 1 of each year or the applicant will be assessed a late fee of three hundred dollars (\$300). A renewal application and license fee, plus a

twenty dollar (\$20) fee for each approved branch office located in Georgia, that is not received on or before the December 1 renewal application deadline of each year cannot be assured of issuance or renewal prior to January 1, at which time the license or registration will ~~be considered to be expired~~. Applicants may not conduct a mortgage business without a current license or registration.

(c) Mortgage Loan Originators. The initial and renewal application and license fee for mortgage loan originators shall be one hundred dollars (\$100), ~~due prior to December 1 of each year~~. Subsequent renewal application fees must be received by the Department on or before December 1 of each year or the applicant will be assessed a late fee of one hundred dollars (\$100). A renewal application is not deemed received until all required information, including a renewal fee in the appropriate amount and documentation showing that the requisite continuing education hours have been obtained, has been provided by the licensee. A renewal application, containing all of the required information along with the correct fees and proof of required continuing education that is not received by the Department on or before the December 1 renewal application deadline of each year cannot be assured of issuance or renewal prior to January 1, at which time the license or registration will ~~be considered to be expired~~. Effective August 1, 2010, applicants may not conduct mortgage loan origination activity without a current license.

(d) Lender Registrants. The initial and renewal application and registration fee for mortgage lenders required to register but not be licensed with the Department shall be one thousand dollars (\$1,000), due on or before December 1 of each year. An initial investigation fee of two hundred fifty dollars (\$250) per applicant shall also apply. Subsequent renewal applications and registration fees must be received on or before December 1 of each year or the applicant will be assessed a late fee of three hundred dollars (\$300). A renewal application and registration fee not received on or before the December 1 renewal application deadline of each year cannot be assured of issuance or renewal prior to January 1, at which time the license or registration will ~~be considered to be expired~~. Applicants may not conduct a mortgage business without a current license or registration.

(e) Broker Registrants. The initial and renewal application and registration fee for mortgage brokers required to register but not be licensed with the Department shall be five hundred dollars (\$500), due on or before December 1 of each year. An initial investigation fee of two hundred fifty dollars (\$250) per applicant shall also apply. Subsequent renewal applications and registration fees must be received on or before December 1 of each year or the applicant will be assessed a late fee of three hundred dollars (\$300). A renewal application and registration fee not received on or before the December 1 renewal application deadline of each year cannot be assured of issuance or renewal prior to January 1, at which time the license or registration will ~~be considered to be expired~~. Applicants may not conduct a mortgage business without a current license or registration.

(f) All license, investigation, registration, and supervision fees, late fees and assessed civil penalties must be paid prior to renewal of the annual license or registration, reinstatement of a license or registration, reapplication for a license or registration or any other approval from the Department.



(g) All late fees collected by the Department, net of the cost of recovery, which cost shall include any cost of hearing and discovery in preparation for hearing, shall be paid into the state treasury to the credit of the general fund or may be paid as provided in O.C.G.A. § 7-1-1018(e).

(h) Applicants for approval to acquire directly or indirectly ten percent (10%) or more of the voting shares of a corporation or ten percent (10%) or more of the ownership of any other entity licensed to conduct business as a mortgage lender and/or a mortgage broker under O.C.G.A. Article 13 (otherwise called change of control) shall pay a nonrefundable investigation, application and processing fee of five hundred dollars (\$500).

(i) Application for an additional office of a licensee shall be accompanied by a nonrefundable fee of three hundred fifty dollar (\$350), as provided in O.C.G.A. §7-1-1006.

(j) The fee for initial application for approval by the Department for a school or education provider shall be five hundred dollars (\$500). An application for approval will be on a form provided by the Department at its website. The fee is nonrefundable. The fee for annual renewal of such approval is two hundred fifty dollars (\$250).

(5) The Department may discount or surcharge all supervision or license fees herein provided to assure funding of annual appropriations by the General Assembly.

Authority Ga. L. 1974, pp. 705, 732, 733, 921; Ga. L. 1976, Act 762, p. 168; 1990, p. 739; 1993, p. 543; O.C.G.A. § 7-1-41; § 7-1-61; § 7-1-685; O.C.G.A. § 7-1-701; O.C.G.A. § 7-1-703; O.C.G.A. § 7-1-716; O.C.G.A. § 7-1-721; § 7-1-1001.1; and § 7-1-1005.

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#### **80-5-1-.04 Levy, Collection, Remittance and Refunds of Georgia Residential Mortgage Act Per Loan Fee.**

(a) Each borrower who obtains a mortgage loan as defined in O.C.G.A. § 7-1-1000(21) shall pay to the department a per loan fee of \$10.00. The \$10.00 fee will be due if the loan is a residential mortgage loan as defined in the Georgia Residential Mortgage Act, and if a security deed, a modification of a security deed, or other form or modification of a security interest is recorded. A change to a security instrument made solely for the purpose of correcting a clerical error will not be subject to a \$10.00 fee. Any person who closes mortgage loans that are subject to regulation under Article 13, regardless of whether said person is required to be licensed or registered under the Georgia Residential Mortgage Act, shall act as collecting agent for payment to the department of said per loan fee for each mortgage loan closed by that person. A mortgage loan shall be deemed to have been closed by a person if such person is indicated as the secured party on the security deed or any other loan document that establishes a lien on the residential real estate taken as collateral for the mortgage loan.

(b) The fees payable under the provisions of subsection (a) shall be payable to the department by the collecting agent, who is the person responsible for remittance of such fees on a semiannual basis. More specifically, such fees for the period January 1 through June 30 of each year shall be remitted to the department no later than the first business day of September of each year and such fees for the period July 1 through December 31 of each year shall be remitted to the department no later than the first business day of March of each year. ~~The department may~~

~~mail a fee statement form to persons making residential mortgage loans in Georgia. Whether or not a form is received, a~~ A fee statement indicating the number of mortgage loans closed during the applicable reporting period by the person remitting the payment shall ~~be enclosed with the payment accompany the fees remitted.~~ The Department requires that the per loan fees and/or the corresponding statement shall be remitted to the Department through its online reporting and payment system at <https://bkgfin.dbf.state.ga.us/GRMAFee.html>. Failure to remit per loan fees and or the corresponding statement via the online reporting and payment system may result in a fine. ~~Such fee statement shall be in a format substantially similar to the following:~~

GEORGIA RESIDENTIAL MORTGAGE ACT  
FEE STATEMENT  
~~SEMIANNUAL STATEMENT OF PER LOAN FEES~~

1. Name of entity remitting the fees: \_\_\_\_\_

2. Mortgage Lender or Broker License or Registration Number (if applicable): \_\_\_\_\_

3. Bank or Credit Union FDIC or NCUA Number: \_\_\_\_\_

4. Fee Statement Period: (Please check all periods that apply.)

— ☐ January 1 through June 30, 200\_\_\*. — ☐ July 1 through December 31, 200\_\_\*.

— Number of Loans: \_\_\_\_\_ Number of Loans: \_\_\_\_\_

5. I hereby certify that no loans requiring a \$10.00 fee have been closed by the above named entity:

\_\_\_\_\_  
(Print Name and title)

\_\_\_\_\_

\_\_\_\_\_  
(Signature)

6. Total Dollar Amount Enclosed: — \$\_\_\_\_\_ (10.00 x number of loans closed.)

— (Total enclosed must equal \$10.00 multiplied by the number of loans indicated above.)

7. Name and telephone number of person to contact with questions concerning this form:

\_\_\_\_\_

8. Name and signature of person completing this form:

\_\_\_\_\_  
(Print Name and title)

\_\_\_\_\_

\_\_\_\_\_

(Signature)

\*Enter applicable year.

Authority Ga. L. 1974, pp. 732, 733; Ga. L. 1988, p. 243; 1993, p. 543; O.C.G.A. § 7-1-41; § 7-1-61; § 7-1-1012.

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**80-5-1-.07 License Renewal Periods and Requirements for Mortgage Brokers, Mortgage Lenders, and Mortgage Originators.**

(a) For purposes of this Article the Nationwide Mortgage Licensing System and Registry (NMLSR) is defined as a uniform multi-state administration of an automated licensing system for mortgage brokers and mortgage lenders. The department's participation in the NMLSR is authorized by O.C.G.A. § 7-1-1003.5.

(b) All applications for new licenses or registrations must be made through NMLSR. Fees for new applications include an initial Department investigation fee and the appropriate application fee for the application type. Applications for new licenses and registrations which are approved between November 1 and December 31 in any year will not be required to file a renewal application for the next calendar year. All fees are non-refundable.

(c) All licenses and registrations issued pursuant to the Act shall expire on December 31 of each year, and an application for renewal shall be made annually between November 1 and December 31 each year. Subsequent renewal applications and/or license fees must be received on or before December 1 of each year or the applicant will be assessed a late fee as set forth in these rules by license or registration type. A renewal application is not deemed received until all required information, including documentation of any required continuing education coursework, and corresponding fees, have has been provided by the licensee. A proper renewal application ~~and/or license fee~~ not received on or before the December 1 renewal application deadline of each year cannot be assured of issuance or renewal prior to January 1, at which time the license or registration will ~~be considered to be~~ expired. Unless a proper application has been received Any license or registration which is not renewed ~~prior to~~ on or before December 31 will require the applicant to file a reinstatement application in order to conduct mortgage business in the State after that date.

Authority O.C.G.A. § 7-1-1003.5.

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**80-11-1-.05 Employee Background Checks; Covered Employees.**

(1) As required by O.C.G.A. §7-1-1004(k), applicants and licensees must complete background checks on all covered employees. Covered employees include those employees who physically work in the state of Georgia and who may enter, delete or verify any information on any mortgage loan application form or document. Employees of a licensee or applicant who are not involved in the mortgage loan business are not covered employees. Background checks on all covered employees must be completed and found satisfactory by the applicant or licensee

within ninety (90) days of the initial date of hire. Employers should submit background information to the proper law enforcement authorities promptly upon initial hire in order to meet the ninety (90) day requirement. A background check must be initiated for a person in the employ of a licensee or applicant within ten (10) days of the date of initial hire.

(2) The term “mortgage loan application form or document” shall mean any prospective borrower’s personal electronic or printed information and documents, including but not limited to bank statements, W-2 forms, income tax returns, employment records, and other personal financial information required to be submitted in the course of making an application for a mortgage loan. It ~~would~~ also includes documents maintained and generated by the licensee in the course of the application and administration of the mortgage loan, including but not limited to electronic or printed/written information on the mortgagor and their loan, including personal and loan database information, payments and payment history information, past due reports and schedules, coupon books, information generated for tax purposes, including escrow information, and any other information generated which would include the financial and loan history of the mortgagor. Documents would also include computer displays of personal and mortgage loan information on an individual borrower or client which may be disseminated by the licensee’s personnel in the course of verifying information for customers and other business related inquiries.

(3) Applicant’s and licensee’s requests for background checks are handled by the Georgia Crime Information Center (GCIC) following their rules and regulations (see also O.C.G.A. §35-3-34). Background checks must be full GCIC checks following that agency’s rules and regulations and must not have any time period limitations or restrictions in the search criteria. Any fees charged by GCIC for processing background checks must be paid by the applicant or licensee. The background checks may be arranged for through a local law enforcement office, so long as the background check is done by GCIC.

(a) If the information from the background check is unclear or incomplete, appears to address or makes reference to a felony conviction, or indicates that the employee has a criminal record in any state other than Georgia (“multi-source offender”), the applicant or licensee must immediately submit two sets of fingerprints of the person, along with the applicable processing fee and any additional information the Department may require to complete an expanded background investigation. A money order or certified check in an amount as directed by the Department made payable to the Department shall be submitted with the cards in order to have the cards processed. Applicant or licensee shall discuss the Georgia Residential Mortgage Act’s legal requirements for employment with the subject employee.

(b) An employee may remain employed by the applicant or licensee pending results of a fingerprint follow up investigation if no felony convictions appear on the GCIC report. If the employee is found to have disqualifying conviction data according to O.C.G.A. §7-1-1004(h), or if the applicant or licensee knows that a disqualifying conviction is present, the applicant or licensee must immediately take action to comply with O.C.G.A. §7-1-1004(h).

Authority O.C.G.A. §7-1-61; §7-1-1012; §7-1-1004.

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#### **80-11-3-.01 Administrative Fines.**

(1) As authorized under Article 13 of Chapter 1 of Title 7, O.C.G.A. § 7-1-1018(g) and § 7-1-1005(d), the Department establishes the following fines and penalties for violation of the Georgia Residential Mortgage Act (“GRMA”) or its rules. Except as otherwise indicated, these fines and penalties apply to any person who is acting as a mortgage lender or broker and who is required to be licensed or registered under O.C.G.A. Title 7, Chapter 1, Article 13 (“licensee” or “registrant”). The Department, at its sole discretion, may waive or modify a fine based upon the gravity of the violation, history of previous violations, and such other facts and circumstances as have contributed to the violation.

(2) All fines levied by the Department are due within thirty (30) days from date of assessment and must be paid prior to renewal of the annual license or registration, reinstatement of a license or registration, or reapplication for a license or registration, or any other activity requiring Departmental approval.

(3) All fines collected by the Department, net of the cost of recovery, which cost shall include any cost of hearing and discovery in preparation for hearing, shall be paid into the state treasury to the credit of the general fund or may be paid as provided in O.C.G.A. § 7-1-1018(d).

(4) Dealing with Unlicensed Persons. Any licensee or registrant or any employee of either who purchases, sells, places for processing or transfers (or performs activities which are the equivalent thereof) a mortgage loan or loan application to or from a person who is required to be but is not duly licensed under the GRMA shall be subject to a fine of one thousand dollars (\$1,000) per transaction and the licensee or registrant shall be subject to suspension or revocation. Licensees are responsible for the actions of their employees.

(4.1) Permitting unlicensed persons to engage in mortgage loan originator activities. Any licensee or registrant who employs a person who does not hold a mortgage loan originator’s license but engages in licensed mortgage loan originator activities as set forth in O.C.G.A. § 7-1-1000(22) shall be subject to a fine of one thousand dollars (\$1,000) per occurrence and the licensee or registrant shall be subject to suspension or revocation. Licensees are responsible for the actions of their employees.

(5) Relocation of Office. Any mortgage broker or mortgage lender licensee who relocates their main office or any additional office and does not notify the Department within thirty (30) days of the relocation in accordance with O.C.G.A. § 7-1-1006(e) shall be subject to a fine of five hundred dollars (\$500).

(6) Unapproved Offices. In addition to the application, fee and approval requirements of O.C.G.A. § 7-1-1006(f), any licensee who operates an unapproved branch office shall be subject to a fine of five hundred dollars (\$500) per unapproved branch office operated and their license will be subject to revocation or suspension;

(7) Change in Ownership. Any person who acquires ten percent (10%) or more of the capital stock or a ten percent (10%) or more ownership of a mortgage broker or mortgage lender licensee without the prior approval of the Department in violation of O.C.G.A. § 7-1-1008 shall be subject to a fine of five hundred dollars (\$500) and their license or registration will be subject to revocation or suspension;

(8) Doing Business Without a License or in Violation of Administrative Order. Any person who acts as a mortgage broker or mortgage lender prior to receiving a current license or registration required under O.C.G.A. Title 7, Chapter 1, Article 13, or during the time a suspension, revocation or applicable cease and desist order is in effect, shall be subject to a fine of one thousand dollars (\$1,000) per transaction and their mortgage lender or broker application will be subject to denial or their license or registration will be subject to revocation or suspension.

(9) Hiring a Felon. Any mortgage broker or mortgage lender licensee or registrant who hires or retains an employee who is a felon as described in O.C.G.A. § 7-1-1004(h), which employee has not complied with the remedies provided for in O.C.G.A. § 7-1-1004(h), may be fined five thousand dollars (\$5,000) per employee found to be in violation of such provision and their license or registration will be subject to revocation or suspension.

(10) Hiring Persons Otherwise Disqualified from Conducting a Mortgage Business. Any mortgage broker or mortgage lender licensee or registrant who employs any person against whom a final cease and desist order has been issued for a violation that occurred within the preceding five (5) years, if such order was based on a violation of O.C.G.A. § 7-1-1013 or based on the conducting of a mortgage business without a required license or exemption, or whose license was revoked within five (5) years of the date such person was hired pursuant to O.C.G.A. § 7-1-1004(o) shall be subject to a fine of five thousand dollars (\$5,000) per such employee and its license or registration will be subject to revocation or suspension;

(11) Books and Records Violations. If the Department, in the course of an examination or investigation, finds that a licensee or registrant has failed to maintain their books and records according to the requirements of O.C.G.A. § 7-1-1009 and Rule Chapter 80-11-2, such licensee or registrant may be subject to a fine of one thousand dollars (\$1,000) for each violation of a books and records requirement listed in Rule Chapter 80-11-2.

(12) Maintenance of Loan Files. Any person who is required to be licensed under O.C.G.A. Title 7, Chapter 1, Article 13 as a mortgage broker or any lender acting as a broker who fails to maintain a loan file for each mortgage loan transaction as required by Rule 80-11-2-.04 or who fails to have all required documents in such file shall be subject to a fine of one thousand dollars (\$1,000) per file not maintained or not accessible, or per file not containing required documentation.

(13) Payment of \$10.00 fees and filing of fee statement ~~form~~. Any person who acts as the collecting agent at a closing of a mortgage loan transaction subject to the Georgia Residential Mortgage Act, is liable for payment of the \$10.00 fee to the Department, pursuant to O.C.G.A. § 7-1-1011 and Rule 80-5-1-.04. The filing of a fee statement ~~form~~ and the remittance of any \$10.00 fees collected made after the date on which they are due shall subject the person to a late fee of ~~one thousand dollars (\$1,000)~~ one hundred dollars (\$100) for each due date missed. If the Department finds that a person has not, through negligence or otherwise, submitted \$10.00 fees within six months of the due date, it may impose an additional ~~one thousand dollars (\$1,000)~~ one hundred dollars (\$100) fine for failure to remit fees. Repeated failure to submit \$10.00 fees may be grounds for revocation of license.

(14) Repealed. Reserved.

(15) Reporting of Violation of Law or Discharge of Employee for Same. Any person required to be licensed or registered under O.C.G.A. Title 7, Chapter 1, Article 13 as a mortgage lender or broker, who fails to report prohibited acts or the discharge of employees for dishonest acts, pursuant to O.C.G.A. § 7-1-1007(d) shall be subject to a fine of one thousand dollars (\$1,000) per act not reported in writing to the Department within 10 days of knowledge of such act.

(16) Prohibited Acts. Any person who is required to be licensed or registered under O.C.G.A. Title 7, Chapter 1, Article 13 as a mortgage broker or mortgage lender who violates the provisions of O.C.G.A. § 7-1-1013 shall be subject to a fine of one thousand dollars (\$1,000) per violation or transaction that is in violation and his or her license shall be subject to suspension or revocation. ~~Misrepresentations as defined in O.C.G.A. § 7-1-1000 are also~~ subject the person making them to a fine, and Misrepresentations include but are not limited to the following: (i) inaccurate or false identification of applicant's employer; (ii) significant discrepancy between applicant's stated income and actual income; (iii) omission of a loan to applicant, listed on loan application, which was closed through same lender or broker; (iv) false or materially overstated information regarding depository accounts; (v) false or altered credit report; and (vi) any fraudulent or unauthorized document used in the loan process. A fine of one thousand dollars (\$1,000) shall be assessed for any other violation of O.C.G.A. § 7-1-1013. The Department shall upon written request provide evidence of the violation.

(17) Branch Manager Approval. Any person who is required to be licensed or registered as a mortgage broker or mortgage lender shall be subject to a fine of five hundred dollars (\$500) for operation of a branch with an unapproved branch manager and the license will be subject to revocation or suspension. No such fine shall be levied while Department approval is pending if timely application for approval is made pursuant to Rule 80-11-1-.04.

(18) Education and Experience Requirements. Any mortgage broker licensee subject to the experience and education requirements who fails to meet such requirements shall be fined one thousand dollars (\$1,000) for operating a mortgage business without meeting licensing standards, and their license or registration will be subject to revocation or suspension.

(19) Failure to Fund. O.C.G.A. § 7-1-1013(3) prohibits failure "to disburse funds in accordance with a written commitment or agreement to make a mortgage loan." If the Department finds, either through a consumer complaint or otherwise, that a lender or a broker acting as a lender has failed to disburse funds in accordance with closing documents, which include legally binding executed agreements indicating a promise to pay and a creation of a security interest, a fine of five thousand dollars (\$5,000) per transaction may be imposed and its license or registration may be subject to revocation or suspension.

(20) Advertising. Any person who is required to be licensed or registered as a mortgage broker or mortgage lender who violates the regulations relative to advertising contained in O.C.G.A. § 7-1-1004.3 and § 7-1-1016 or the advertising requirements of department Rule 80-11-1-.02 shall be subject to a fine of five hundred dollars (\$500) for each violation of law or rule.

(21) Failure to Submit to Examination or Investigation. The penalty for refusal to permit an investigation or examination of books, accounts and records (after a reasonable request by the Department) shall be revocation of the license or registration and a five thousand dollars

(\$5,000) fine. Refusal shall be determined according to Department examination policies and procedures, but shall require at least two attempts to schedule an examination or investigation.

(22) Repealed. Reserved.

(23) Background Checks. Any licensee who fails to perform proper background checks on covered employees in accordance with the provisions of O.C.G.A. § 7-1-1004(h), (i), and (k) shall be subject to a fine of one thousand dollars (\$1,000) for each employee on whom the required background check was not conducted.

(24) Change in Officers. Any licensee who fails to notify the Department of a change in principals of the company without the proper approval of the Department in violation of O.C.G.A. § 7-1-1006(e) shall be subject to a fine of five hundred dollars (\$500).

(25) Georgia Fair Lending Act. Any person who is required to be licensed or registered under O.C.G.A. Title 7, Chapter 1, Article 13 as a mortgage broker or mortgage lender who violates any provision of Chapter 6A of Article 13, the Georgia Fair Lending Act, shall be subject to a fine of one thousand dollars (\$1,000) per violation or transaction that is in violation and their license will be subject to revocation or suspension.

(26) Consumer Complaints. Any licensee or registrant who fails to respond to a consumer complaint or fails to respond to the Department within the time periods specified in the Department's correspondence to such person shall be subject to a fine of one thousand dollars (\$1,000) for each occurrence. Repeated failure to properly respond to consumer complaints may result in revocation of license.

(27) Failure to Perform Timely Background Checks. If the ten (10) day requirement for submission of background information to the proper law enforcement authorities is not met, the employer shall be subject to a one thousand dollars (\$1,000) fine.

(28) Failure to Timely File Call Reports. Any licensee or registrant who fails to timely file a Call Report as required through the Nationwide Mortgage Licensing System and Registry shall be subject to a one thousand dollars (\$1,000) fine per occurrence. Repeated failure to timely file Call Reports as required may result in revocation of license.

Authority O.C.G.A. § 7-1-61; § 7-1-1012; § 7-1-1004.1.

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#### **80-11-4-.01 Initial Experience and Education Requirements; Continuing Education.**

(1) Subject to the exceptions below, any mortgage broker license issued, reinstated or renewed after July 1, 2000 to an applicant, shall be subject to the requirements for experience or education. Such requirements shall apply to natural person applicants, or if to other entities or persons, to the operating manager who administers the operations in this state (collectively, "applicant").

(2) Applicants for a new license or for reinstatement of a previous license shall elect and meet either the experience or the education requirements before a license will be issued or reinstated.

(3) Exception for certain licensees for initial education or experience requirements.

(a) Any mortgage broker license issued to an applicant prior to July 1, 2000, which license remains continuously valid without interruption until renewed on July 1, 2001, shall be subject to either one year of verifiable experience or applicant must meet the education requirements in this rule.

(b) Applicants for renewal eligible for this exception, in the case of a natural person, need only state on the application that the license was issued on or before July 1, 2000 and has remained continuously valid without interruption since July 1, 2000. In the case of other entities or persons, applicant must demonstrate that the current operating manager has completed either one year of experience, verified according to this rule, or the education requirements.

(4) Experience Requirements:

(a) Applicant must complete two (2) years of verifiable experience working full time for a licensed mortgage broker or lender.

(b) Experience shall consist of directly soliciting, processing, placing and negotiating mortgage loans for others.

(c) The following information must be submitted at the time of application or renewal by an applicant who wishes to qualify by using experience:

1. Letter on letterhead from previous or current employer certifying completion of two (2) years work experience directly soliciting, processing, placing, and negotiating mortgage loans for others. Telephone number of employer must be provided;

2. Copy of IRS form W-2 for the tax years covering the experience requirement;

3. Completed and signed IRS form 4506 which enables the Department to verify the W-2, and;

4. Other documents or information required by the Department necessary to verify completion of the experience requirement. Experience requirement may be verified by the Department directly with the employer and tax authorities.

(d) If applicant's experience is received from an employer not required to be a Georgia Residential Mortgage Act licensee, such applicant must also complete four (4) hours of education provided by an approved school in Georgia, which education specifically covers the Georgia Residential Mortgage Act and rules and regulations of the Department.

(5) Initial Education Requirements:

(a) An applicant for a mortgage broker's license must complete a minimum of forty (40) ~~course~~ hours of prescribed courses from a Department or Nationwide Mortgage Licensing System and Registry (NMLSR) approved provider of mortgage training, ~~courses~~. A mortgage broker that is also ~~required to have~~ making an application for a mortgage loan originator's license may apply the twenty (20) hours of required mortgage loan originator pre-licensing education towards its mortgage broker license.

(b) Course work taken pursuant to this rule shall pertain to basic technical mortgage terms, elements of the mortgage brokering process, federal law, applications and required documentation, and shall include a minimum of four (4) course hours on Georgia law, rules and regulations; fraud detection; and the prevention of fraud in the mortgage industry.

(c) Applicant must submit proof of completion of the required education courses in the form of a certificate of completion issued by a Department approved provider of mortgage education courses. This requirement may be verified by the Department directly with the provider. The Department will make a list of such providers available on its website.

(6) Experience requirements must have been completed within the three (3) calendar year period immediately prior to the date of approval of the license. Initial education requirements must have been completed within the one (1) calendar year period prior to the date of approval.

(7) Continuing Education. Applicants for renewal of a broker's license ~~who are exempt from that are not subject to~~ the mortgage loan originator's license requirements shall meet the continuing education requirements set forth in subparts (a) through (i) of this rule. Mortgage broker/processor licensees who ~~are also required to~~ maintain a mortgage loan originator's license must meet the continuing education requirements set forth in Rule 80-11-5-04(1)(b).

(a) Applicant must complete on an annual basis and by October 31 each year a minimum of eight (8) hours of continuing education dealing with elements of the mortgage brokering process, federal law, federal rules and regulations, Georgia law, Georgia rules and regulations, applications and required documentation, fraud, ethics or other topics pertinent to the operation of a mortgage brokering business in Georgia. At least one (1) hour shall be concentrated on fraud detection and prevention. A mortgage broker that is also a mortgage loan originator may apply the eight (8) hours of annual continuing education required by O.C.G.A. § 7-1-1004(g) to the continuing education requirement contained in this rule.

(b) Except as provided in this rule, continuing education must be completed with a Department or NMLSR approved provider of mortgage education classes and be timely reported to the NMLSR pursuant to NMLSR requirements.

(c) Seminars, courses or classes sponsored and approved by mortgage-related state and federal regulatory agencies, a NMLSR approved provider, the National Association of Mortgage

Brokers (NAMB), state and federal regulated lenders and their affiliates or professional associations, all of which must be recognized by the Department as proper providers of education requirements (“approved providers”). Requirements may be satisfied at monthly association meetings, conventions, seminars or through electronic means provided the subject meets the requirements of this Rule. For purposes of continuing education, instructors and speakers at seminars, conventions or classes sponsored by approved providers will not be required to seek Department approval as approved providers of mortgage education classes. Education providers shall assign a certificate number to each attendee of a seminar, course or class. In state providers must keep lists of attendees for at least two (2) years.

(d) Each licensed broker must maintain a listing of the courses completed or seminars attended, the date attended, the name of the instructor or speaker, the name of the sponsoring association, the course agenda and the credit hours earned for each course or seminar. Credit hours may not be earned or approved in less than one (1) hour increments. Such information may be requested as part of the renewal application.

(e) The Department will not be required to verify that each applicant has completed the required Department continuing education hours prior to issuance of a renewal license. However, the Department may at any time and at its discretion select any number of renewal applications to verify that the continuing education requirements have been met. Verification of continuing education hours may be performed as a part of the examination process. Licensees must maintain documentation for five (5) years that verifies the continuing education hours attained. The Department may request proof of attendance or verification from the applicant, sponsor, instructor or speaker.

(f) The Department may at its discretion accept continuing education hours completed between November 1 and December 31 of each year as part of the license renewal requirement. However, licensees/applicants that fail to attain at least eight (8) continuing education hours by October 31 of each year will be subject to a one thousand dollars (\$1,000) fine.

(g) Upon submitting an application to renew a license, failure to complete eight (8) continuing education hours by October 31 together with failure to complete the hours by December 31 with payment of the one thousand dollars (\$1,000) fine shall result in inability to renew the license, or other administrative action.

(h) For purposes of continuing education requirements “applicant” shall mean an individual owner of the licensee, or a person designated and employed by the licensee as the primary supervisor or manager of the licensee’s mortgage business. The intent of the rule is that the continuing education for a mortgage broker’s license must be obtained by a person who directs the affairs of the mortgage business.

(i) Newly licensed brokers who obtain their license between January 1 and October 31 of any year will be required to have eight (8) hours of continuing education credits in order to qualify to renew their license for the next license renewal period. Newly licensed brokers who obtain their license between November 1 and December 31 of any year will be required to complete continuing education credits prior to license renewal. Provisions in subsection (f) and (g) of this rule also apply to such newly licensed brokers.

Authority O.C.G.A. § 7-1-1012; § 7-1-1004.

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**80-11-4-.04 ~~Temporary License.~~ Repealed and Reserved.**

~~In certain instances, the department may grant to an applicant a temporary license for one or more months, to be determined in the discretion of the department. The license shall clearly state on its face the term of the license. The cost shall be the same as that for a permanent license. If a permanent license for the same year is subsequently issued, no additional license fee will result.~~

Authority O.C.G.A. § 7-1-1012.

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**80-11-4-.05 Knowing Purchase, Sale or Transfer of Loan or Loan Application from Unlicensed Entity, Mortgage Loan Originator Sponsorship Excluded.**

(1) It is prohibited for any person to knowingly purchase, sell or transfer a mortgage loan or loan application to or from an unlicensed mortgage loan originator, mortgage lender or broker, unless that entity is exempt from licensing. It is expected that all persons who purchase loans use reasonable diligence to determine whether the entities they do business with are licensed. To that end, the department has provided various means to determine whether an entity is licensed.

(a) A list of current licensees is provided at the department's Internet website. It is updated nightly with the exception of weekends and holidays.

(b) The department's website also contains information pertaining to all denied, revoked and sanctioned licenses. It is updated weekly.

(c) The department responds to telephone inquiries from 8:00 a.m. to 4:30 p.m. each weekday (except holidays) and provides current information to callers.

(2) Obtaining a copy of an entity's annual license shall not be sufficient evidence of a current license since revocation proceedings occur throughout the year.

(3) Failure by a licensee to exercise reasonable diligence to determine whether an entity is licensed may result in a fine or other administrative action, including, but not limited to, license revocation.

(4) The mere act of sponsoring an employee seeking licensure from the department as a mortgage loan originator through the Nationwide Mortgage Licensing System and Registry shall not be regarded in and of itself as engaging in the mortgage business with an unlicensed person as long as the applicant is not performing for the sponsoring licensee or registrant those regulated activities set forth in O.C.G.A. § 7-1-1000(22).

Authority O.C.G.A. § 7-1-1012; § 7-1-1002.

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#### **80-11-4-.08 Restrictions on Employment and Licensing.**

(1) No person who has been an officer, director, partner or ultimate equitable owner of a licensee that has had its license revoked, denied or suspended, may perform any of those roles at another licensee or registrant for five years from the date of the final order.

(2) Felony convictions; restrictions on the employee and the licensee:

(a) O.C.G.A. § 7-1-1004 provides that no person employed by or directing the affairs of any licensee may be a convicted felon. Licensees are obligated by that statute to do their own background checks on covered employees. Licensees, however, are responsible to see that no convicted felons are employed or direct the affairs of their business. The department administers fingerprint checks on officers and directors and others where needed.

(b) O.C.G.A. § 7-1-1004 provides for remedies to “cure” a ~~prior~~ felony conviction. These remedies must be completed and in place prior to employment. Hiring or continuing to employ a person with an unremedied felony conviction subjects a licensee to revocation of its license.

(c) If a licensee discovers that an employee or director/officer is a felon who has not satisfactorily “cured” the conviction, the violation of O.C.G.A. § 7-1-1004 must be immediately corrected or the license will be subject to revocation. Such individuals with felony convictions are ineligible for an employee exemption and are in violation of O.C.G.A. § 7-1-1019, also a felony, and O.C.G.A. §§ ~~7-1-1019~~, 7-1-1004 and 7-1-1002. The licensee employer is in violation of O.C.G.A. §§ 7-1-1004 and 7-1-1002.

(d) A cease and desist order to a person for failure to meet the employee exemption due to a violation of the felony provisions of O.C.G.A. § 7-1-1004 shall become final in 30 days without a hearing. Such a person must show within those 30 days, by certified court documents that the record is erroneous, or, that the “cure” provisions in O.C.G.A. § 7-1-1004 were completed prior to employment, in order to stop the order from becoming final. In the event such proof is provided, the order will be rescinded.

(3) Cease and desist orders may be issued against persons required to be licensees or registrants or against employees of those parties. All of the provisions of O.C.G.A. § 7-1-1018, including injunction, apply to actions against all such persons.

(4) The Department may regularly publish on its website, or through other means, information identifying persons and natural persons to whom final administrative actions have been issued.

Authority O.C.G.A. §§ 7-1-61; 7-1-1004; 7-1-1012, and 7-1-1018.

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#### **80-11-5-.01 Mortgage Loan Originator Licensure Requirements.**

(1) ~~Unless exempt from licensure pursuant to O.C.G.A. § 7-1-1001, e~~Effective August 1, 2010, a mortgage loan originator may not engage in the business of mortgage loan origination for

a licensed residential mortgage broker or lender without first obtaining and maintaining a current Georgia mortgage loan originator's license issued through the National Mortgage Licensing System and Registry (NMLSR).

(2) An applicant for mortgage loan originators license must have a sponsor at and during the time his or her application is being considered for approval or renewal by the Department. Failure to have a sponsor at the time application for licensure is made on the NMLSR or while it is pending shall result in the application being administratively withdrawn by the Department. For purposes of this Rule Chapter, "sponsorship" means the authorization for a properly licensed mortgage loan originator to conduct business as an employee under and on behalf of a specific mortgage broker or mortgage lender's license or registration. Sponsorship must be initiated and maintained by the licensed or registered mortgage broker or mortgage lender employing a mortgage loan originator.

~~(2)(3)(a) Unless a mortgage loan originator is employed by an exempt entity, no As a continuing requirement of licensure, a mortgage loan originator may work in the state of Georgia without must at all times have having proper sponsorship on record with the NMLSR by a licensed or registered Georgia mortgage broker or mortgage lender. For purposes of this Rule Chapter, "sponsorship" means the authorization for a mortgage loan originator to conduct business as an employee under and on behalf of a specific mortgage broker or mortgage lender's license or registration. Sponsorship must be initiated and maintained by the licensed or registered mortgage broker or mortgage lender employing a mortgage loan originator.~~

(b) Sponsorship must be applied for and accepted by the Department. Once established, a sponsorship can be removed by either the employing licensee or registrant, ~~or by the mortgage loan originator.~~ It shall be the responsibility of every licensee or registrant to ensure that the status of a mortgage loan originator applicant and licensee to ensure that his or her sponsorship is correctly reflected at all times on the NMLSR.

~~(3) (4) A mortgage loan originator shall have coverage under the surety bond of his or her licensed or registered mortgage broker or mortgage lender employer, or under a surety bond maintained by the loan originator.~~

~~(a) A surety bond covering the mortgage loan originator shall have a stated term of one year or more and shall expire a minimum of twelve (12) months from the date of issuance. The bond requirement is continuous in nature.~~

~~(b) A mortgage loan originator operating under the bond of his or her mortgage licensee or registrant employer must be covered continuously under his or her employer's bond under his or her name of record under the NMLRS and ensure such coverage is in effect during the time that the mortgage loan originator is engaged in making Georgia mortgage loans for that employer.~~

~~(c) A mortgage loan originator required to obtain his or her own surety bond coverage shall obtain a bond in the amount of at least \$10,000 for mortgage loan originators that originate between \$1 dollar and \$10 million dollars annually, or a bond in the amount of at least \$15,000 for mortgage loan originators that originate greater than \$10 million dollars annually. The bond obtained by a mortgage loan originator must be provided to the Department in a form acceptable to the agency. All other provisions concerning surety bond coverage maintained by a mortgage~~

~~loan originator's employer must be met by mortgage loan originators maintaining their own coverage.~~

~~(d) Surety bonds provided to the Department are deemed to be records of the Department and will not be released or returned to licensees or to the entities by which they were issued.~~

~~(4) Mortgage loan originator bond coverage shall not be canceled by either the employing licensed or registered mortgage broker or mortgage lender, the mortgage loan originator licensee or the corporate surety except upon notice to the Department by registered or certified mail or statutory overnight delivery with return receipt requested. The cancellation shall not be effective less than thirty (30) days after receipt by the Department of such notice.~~

(5) An applicant for a mortgage loan originator's license will not be approved for licensure if he or she has pleaded guilty to, been found guilty of, or entered a first offender or nolo plea for a felony. A mortgage loan originator license applicant will not be approved for licensure or reinstatement of licensure if he or she has been convicted of a felony in an instance in which a restoration of rights subsequently was issued by a state or federal pardoning authority empowered to dispense this relief.

(6) A mortgage loan originator must immediately surrender his or her license to the Department through the NMLSR once he or she leaves the employ of a licensed broker or lender and begins working as a loan officer for an exempt entity identified in O.C.G.A. § 7-1-1001.

Authority O.C.G.A. § 7-1-1001.1; § 7-1-1002; § 7-1-1003.2; and § 7-1-1004.

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#### **80-11-5-.04 Renewals.**

(1) Mortgage loan originator licenses shall expire on December 31st of each calendar year. A mortgage loan originator must meet the following requirements in order to have his or her license renewed:

(a) A mortgage loan originator must continue to meet the minimum standards for license issuance.

(b) Timely submission of a complete renewal application and corresponding fee.

(c) A loan originator must satisfy the continuing education requirements of O.C.G.A. § 7-1-1004(g). The applicant must obtain on an annual basis eight (8) hours of approved continuing education in mortgage courses from an NMLSR approved provider. Of these eight (8) hours, seven (7) hours must be obtained in course work addressing the subjects identified in O.C.G.A. § 7-1-1004(g)(1), and at least one (1) hour of continuing education must be obtained in coursework addressing the Georgia Residential Mortgage Act, specifically any changes made to the statute and its corresponding regulations.

(d) Courses taken to meet the approved continuing education requirements of the NMLSR for any state shall be accepted as credit towards continuing education requirements in Georgia,

with the exception that one (1) hour of the required courses must cover laws and regulations related to Georgia mortgage licensure, not that of another state.

(e) Continuing education credits are only valid in the calendar year in which the courses are taken. Credits earned during November 1 through December 31 will be excluded from consideration for continuing education credit hours earned for the subsequent renewal period. When continuing education hours are obtained by a mortgage loan originator, only credit hours obtained from January 1 to October 31 shall be considered for purposes of meeting the eight (8) hours of continuing education required in the subsequent renewal period.

(f) Upon submitting an application to renew a license, failure to document to the Department's satisfaction proof of completion of eight (8) continuing education hours by October 31 will subject the licensee to a ~~one thousand dollar (\$1,000)~~ fine. The failure to obtain and document proof of completion of these hours by December 31 with payment of the ~~one thousand dollar (\$1,000)~~ fine shall result in the expiration of the mortgage loan originator's license without notice or hearing.

(2) A mortgage loan originator whose license has not been active for a period of up to five (5) years shall provide proof of completion of the continuing education requirements for the last year in which the license was held in order to reinstate it. Should reinstatement of an expired license be sought for a license that has not been active for five (5) consecutive years or more, such reinstatement application will require that the applicant again meet the testing requirements set forth in O.C.G.A. § 7-1-1004 (e) and (f). If a person has worked as a registered loan originator at any time during the lapsed license period, the period of time the registered mortgage loan officer was employed in this capacity shall not count toward the calculation of the time period for the continuing education and testing requirements of this paragraph.

Authority O.C.G.A. §§ 7-1-1004(e)(4); 7-1-1004.2; 7-1-1005.

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#### **80-11-5-.05 Administrative Fines.**

(1) The Department establishes the following fines and penalties for violation by mortgage loan originators of the Georgia Residential Mortgage Act ("GRMA") or its rules. The Department, in its sole discretion, may waive or modify any fine based upon the gravity of the violation, history of previous violations, and such other facts and circumstances as have contributed to the violation.

(2) All fines levied by the Department are due within thirty (30) days from date of assessment and must be paid prior to renewal of the annual license or registration, reinstatement of a license or registration, or reapplication for a license or registration, or any other activity requiring Departmental approval.

(3) All fines collected by the Department shall be paid into the state treasury to the credit of the general fund.

(4) The following fines shall be assessed for violations of ~~the Georgia Residential Mortgage Act~~ GRMA and Department rules:



(a) Dealing with Unlicensed Persons. A mortgage loan originator that purchases, sells, places for processing or transfers (or performs activities which are the equivalent thereof) a mortgage loan or loan application to or from a person who is required to be but is not duly licensed under GRMA shall be subject to a fine of one thousand dollars (\$1,000) per transaction and his or her license shall be subject to suspension or revocation.

(b) Unapproved Location. A mortgage loan originator that operates from a location in Georgia other than a required approved location on record with the Department shall be subject to a fine of five hundred dollars (\$500) per unapproved location operated and his or her license may be subject to revocation or suspension.

(c) Doing Business Without a License or in Violation of Administrative Order. Any person who acts as a mortgage loan originator prior to receiving a current license or registration required under GRMA, or during the time a suspension, revocation or applicable cease and desist order is in effect, shall be subject to a fine of one thousand dollars (\$1,000) per transaction and the mortgage loan originator's application will be subject to denial or his or her license or registration will be subject to revocation or suspension.

(d) Books and Records Violations. If the Department, in the course of an examination or investigation, finds that a mortgage loan originator licensee or registrant has failed to maintain his or her books and records according to the requirements of Rule 80-11-5-.04, such licensee or registrant may be subject to a fine of one thousand dollars (\$1,000) for each violation of a books and records found to occur.

(e) Prohibited Acts. Any person who is required to be licensed under O.C.G.A. Title 7, Article 13 as a mortgage loan originator who violates the provisions of O.C.G.A. §7-1-1013 shall be subject to a fine of one thousand dollars (\$1,000) per violation or transaction that is in violation and his or her license shall be subject to suspension or revocation.

(f) Education and Experience Requirements. A mortgage loan originator ~~subject to the experience and education requirements~~ who fails to meet ~~such requirements~~ the requirement that he or she timely obtain the type and number of continuing education hours each year as required shall be fined one hundred dollars (\$100). ~~one thousand dollars (\$1,000) for conducting mortgage business without meeting licensing standards, and his or her license will be subject to revocation or suspension.~~

(g) Advertising. A mortgage loan originator that is required to be licensed who violates the regulations relative to advertising contained in O.C.G.A. §§ 7-1-1004.3 and 7-1-1016 or the advertising requirements of the Department shall be subject to a fine of five hundred dollars (\$500) for each violation of law or rule.

(h) Failure to Submit to Examination or Investigation. The penalty for refusal to permit an investigation or examination of books, accounts and records (after a reasonable request by the Department) shall be revocation of the license or registration and a five thousand dollars (\$5,000) fine. Refusal shall be determined according to Department examination policies and procedures, but shall require at least two attempts to schedule an examination or investigation.

(i) Permitting an unlicensed person to use a licensed mortgage loan originator's license and identity. Any licensed mortgage loan originator who permits an unlicensed person to use that licensee's name, Nationwide Mortgage Licensing System and Registry Number or other identifying information for the purpose of submitting loan documents to lenders shall be subject to a fine of one thousand dollars (\$1,000) per occurrence, and the license of the mortgage loan originator shall be subject to revocation.

Authority O.C.G.A. § 7-1-1018(g).

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**80-11-5-.06 Administrative Actions; Nationwide Mortgage Licensing System and Registry Information Challenges.**

(1) Final administrative actions taken against mortgage loan originators shall be considered public information and may be disseminated through the Nationwide Mortgage Licensing System and Registry (NMLSR) ~~or~~ and by the Department.

(2) A mortgage loan originator may challenge information entered by the Department into the NMLSR. All challenges must be sent to the Department in writing addressed to the attention of the Deputy Commissioner of Non-Depository Financial Institutions. Once received, the Department shall consider the merits of the challenge raised and provide the mortgage loan originator with a written reply that shall be the agency's final decision in response thereto.

Authority O.C.G.A. § 7-1-61; § 7-1-1003.6; § 7-1-1004.2; § 7-1-1012.

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**80-11-5-.07 Information on the Nationwide Mortgage Licensing System and Registry.**

(1) It shall be the sole responsibility of each mortgage loan originator applicant and licensee to keep current at all times his or her information on the Nationwide Mortgage Licensing System and Registry ("NMLSR"), including, but not limited to, his or her employment history, e-mail address, telephone numbers, facsimile number, and residential history. Amendments to any contact information on file with the NMLSR must be made by the applicant or licensee within ten (10) business days of the date of the event necessitating the change. The Department shall have no responsibility for any communication not received by an applicant or licensee due to his or her failure to maintain current contact information on the Nationwide Mortgage Licensing System and Registry as required.

(2) Amendments to any responses to disclosure questions on a mortgage loan originator applicant or licensee's NMLSR MU-4 must be made within ten (10) business days following the date of the event necessitating the change. Failure by an applicant for a mortgage loan originator's license to timely update the applicant's MU-4 may result in the denial or administrative withdrawal of his or her license application. In the case of a licensed mortgage loan originator, failure to timely update any disclosure information on the NMLSR MU-4 may result in the revocation of his or her license.

Authority: O.C.G.A. §§ 7-1-61, ~~and 7-1-1003,~~ and 7-1-1004.

